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Cc:

Subject: RE: Extension of Assessment Statute in TEFRA-related Matter

The extensions are valid based on several alternative grounds. I assume that the father signed the agreements as president of the S corp TMP. I assume that the father and son did not sign their own separate partner-level Forms 872. First, from your description, it sounds like the corporation was suspended rather than finally dissolved since they continued to exist at least for wind up purposes and can be reinstated (presumably retroactive to the beginning of the 5 year period). In two of the cases cited below this did not terminate the corporations authority. Secondly, the partners will likely be estopped from contesting the extensions since they represented the S corp as TMP and did not inform the government of its possible termination. Third, if the S corporation did not exist, the father would be treated as a direct manager (general partner) of the TEFRA entity entitled to extend the statute under state law. See Cambridge v. Commissioner. Fourth, the father at least had authority to extend the statute for himself even if he was not an officer of the TMP or a general partner. For the above arguments generally see Transpac Drilling, T.C. memo. 1994-26; Consolidated v. Commissioner, T.C. Memo. 19993-571; Georgetown Petroleum v. Commissioner, T.C. Memo. 1994-13